



THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

JOHN L. HILL
ATTORNEY GENERAL

September 12, 1975

The Honorable Dorman H. Winfrey
Director and Librarian
Texas State Library
Box 12927, Capitol Station
Austin, Texas 78711

Opinion No. H- 689

Re: The authority of the Library
and Historical Commission to
make grants-in-aid to community
libraries.

Dear Dr. Winfrey:

You have asked our opinion as to whether a community library may receive monetary grants under the Library Systems Act, article 5446a, V. T. C. S. A "community library" is defined by the Act as "a small public library serving a population of less than 25,000." Sec. 2(a).

Your question is prompted by the circumstance that the Act, in describing the operations of both a "major resource center" [a larger public library as defined by section 2(7)] and an "area library" [a medium-sized library as defined by section 2(8)] contains language providing that "state grants-in-aid . . . shall be deposited with the governing body" operating the respective libraries [see sections 11(d) and 12(d)]; by contrast, that portion of the Act, in detailing the operations of a "community library" [see section 13] contains no reference to "state grants-in-aid." You ask whether this omission should be interpreted to mean that grants cannot be made to "community libraries."

We think this omission does not control since another portion of the Act deals with grants to libraries and must be examined to determine whether grants can properly be made to community libraries. State grants-in-aid are authorized by section 14 which provides:

(a) A program of state grants within the limitations of funds appropriated by the Texas Legislature shall be established.

(b) The program of state grants shall include one or more of the following:

(1) system operation grants, to strengthen major resource system services to member libraries, including grants to reimburse other libraries for providing specialized services to major resource systems;

(2) incentive grants, to encourage libraries to join together into larger units of service in order to meet criteria for major resource system membership;

(3) establishment grants, to help establish libraries

which will qualify for major resource system membership in communities without library service; and

(4) equalization grants, to help libraries in communities with relatively limited taxable resources to meet criteria for major resource system membership.

The "establishment grant" as defined by subsection (b)(3) would seem to be limited to situations where there is no existing library and by definition could not be awarded to an operational "community library."

The incentive and equalization grants may be made to existing libraries although the language would seem to limit the grants to libraries not presently members of a major resource library system. Accordingly, such grants cannot properly be made to existing community libraries.

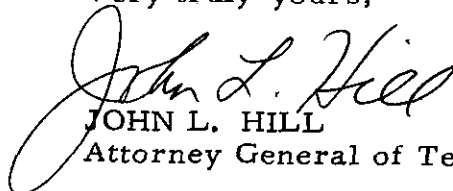
"System operation grants," authorized by subsection (b)(1), can properly be awarded to any "community library" if the Commission (the Texas State Library and Historical Commission) determines either that the grant "will strengthen major resource system services to member libraries" or will "reimburse . . . [the library] for providing specialized services to [the] major resource system." It would seem that grants to community libraries would be justifiable under this subsection as long as they contribute to the accomplishment of these broad purposes. The determination of whether a particular grant would so contribute is of course the responsibility of the Commission in the proper exercise of its administrative discretion. Moreover, where a community library has a specialized collection of books not otherwise readily available to most libraries and which is shared with other member libraries, a grant aimed at improving the specialized collection would come within the language and spirit of system operation grants as defined by subsection (b)(1).

Accordingly, the incentive grants may properly be made to community libraries where a merging of two or more such libraries is contemplated and will result in a library which will qualify as an area library. And, "system operation grants" can be awarded to community libraries where the grant will "strengthen" the system services or will reimburse a particular library for providing "specialized services" to the system.

SUMMARY


System operation grants and incentive grants can be awarded to community libraries where the proper, prerequisite circumstances exist.

Very truly yours,


JOHN L. HILL
Attorney General of Texas

APPROVED:


DAVID M. KENDALL, First Assistant


C. ROBERT HEATH, Chairman
Opinion Committee

jad: